



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH: C-IV

IA-4617 of 2023 in CP(IB)-3243 of 2019

Under Section 33(1) of Insolvency &
Bankruptcy Code, 2016.

Nitin Om Kothari

...Resolution Professional/
Applicant

In the matter of

Punjab National Bank

...Financial Creditors

Vs.

Lalit Polyester Private Limited

...Corporate Debtor

Ordered pronounced on : **11.01.2024**

Coram:

Ms. Anu Jagmohan Singh

Mr. Kishore Vemulapalli

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Applicant/RP

: Mr. Agam H. Maloo, Advocate.

ORDER

1. This is an application filed by Mr. Nitin Om Kothari, Resolution Professional of the Corporate Debtor, seeking liquidation of Lalit Polyester Private

Limited under Section 33(2) of Insolvency and Bankruptcy Code, 2016 (hereinafter called as the "Code").

Brief facts of the Application are as follows:

2. This Tribunal vide an order dated 05.01.2023, in Company Petition bearing C.P.(IB)-3243(MB)/2019 filed under Section 7 of the Code, by Punjab National Bank (hereinafter referred to as the "Financial Creditors"), admitted the petition and Corporate Insolvency Resolution Process (CIRP) was initiated against Lalit Polyester Private Limited [CIN: U99999MH1988PTC045817] (hereinafter called as the "Corporate Debtor"). The applicant was appointed as Interim Resolution Professional by this Tribunal vide same order. He was later appointed as Resolution Professional (RP) in the 7th CoC meeting held on 05.07.2023.
3. Form G inviting Expression of Interest (EoI) from prospective resolution applicants under, section 30(6) of the Code was published on 10.03.2023 and the last date for submission of Expression of Interest was 30.03.2023.
4. Counsel for the applicant submits that the fourth meeting of the CoC held on 12.05.2023 wherein the Applicant informed that they have received one Expression of Interest from PRA namely Nakshatra Corporate Advisors Limited wherein the RFRP has been issued to the PRA and the last date for submission of Resolution Plan is 07.06.2023.
5. Counsel for the applicant submits that the 7th CoC meeting held on 05.07.2023, wherein the Applicant was appointed as the Resolution Professional. Further, it was discussed in the meeting that CoC does not see

any chance of revival of the Corporate Debtor. Therefore, the CoC members hereby assented with 100% voting for the Liquidation of the Corporate Debtor under section 33(2) of the Code.

6. In 7th meeting of the CoC held on 05.07.2023, the members considered recommending Liquidation of the Corporate Debtor. The same are reproduced below:

"Resolved that pursuant to the provisions of the Insolvency and Bankruptcy Code, 2016 and the rules and Regulations thereunder, the members of the Committee of Creditors hereby decide for the Liquidation of the Corporate Debtor namely Lalit Polyester Private Limited u/s 33(2) and the recommends the Hon. NCLT accordingly.

Further Resolved that in terms of Sec.33(2), the IRP/RP be and hereby requested to file the necessary application before the Hon' NCLT by intimating the Adjudicating Authority of the decision of the Committee of Creditors and requesting NCLT to pass Liquidation order as referred to in sub clause (i), (ii) and (iii) of sub-section (1).

7. In the present case, the CoC via E-voting Poll Result resolved with the majority of 100% of the votes to proceed with the liquidation of the Corporate Debtor.
8. The Applicant further submits that the CoC in its 8th meeting conducted on 31.08.2023, and voted with 100% in favour of the Resolution to appoint Mr. Anil Seetaram Vaidya, having Registration No. IBBI/IPA-002/IP-N00067/2017-2018/10145 as liquidator of the Corporate Debtor. Written



consent to act as a Liquidator has been given by proposed Liquidator Mr. Anil Seetaram Vaidya which is annexed to additional affidavit filed on 13.12.2023 as exhibit B. Further, this bench is also notes that as per the IBBI website the AFA certificate No. AA2/10145/02/111024/202897 issued to Mr. Anil Seetaram Vaidya is valid up to 11.10.2024.

9. Considering the facts and circumstances of the present case, the Bench is of the considered view that the Corporate Debtor be liquidated. Accordingly, this Bench orders that:
 - a. IA-4617 OF 2023 IN CP(IB)-3243 OF 2019 filed by the Applicant for the Liquidation of the Corporate Debtor viz. Lalit Polyester Private Limited is **allowed** and the company to be liquidated in the following manner:
 - b. Anil Seetaram Vaidya, having Registration No. IBBI/IPA-002/IP-N00067/2017-2018/10145, (email: anilvaidya38@gmail.com) is appointed as the Liquidator as provided under Section 34(1) of the Code to conduct the liquidation process of the Corporate Debtor.
 - c. The Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4(2)(b) of the IBBI (Liquidation Process Regulations), 2016.
 - d. The Liquidator appointed in this case to initiate liquidation process as envisaged under Chapter-III of the Code by following the liquidation process given in the Insolvency & Bankruptcy Board of India (Liquidation Process) Regulations, 2016.
 - e. The Liquidator appointed under Section 34(1) of the Code, will have all powers of the Board of Directors, key managerial personnel and the

partners of the Corporate Debtor, as the case may be, hereafter ceased to exist and henceforth be vested with the Liquidator.

- f. The Corporate Debtor to be Liquidated in the manner as laid down in the Chapter by issuing Public Notice stating that the Corporate Debtor is in liquidation with a direction to the Liquidator to send this order to the RoC under which this Company has been registered.
 - g. The personnel of the Corporate Debtor are directed to extend all co-operation to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
 - h. On having liquidation process initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor save and except the liberty to the Liquidator to institute suit or other legal proceedings on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority.
 - i. This liquidation order u/s 33(7) shall be deemed to be a notice of discharge to the officers, employees and workmen of the Corporate Debtor except to the extent of the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
10. With the above directions, the IA-4617 of 2023 in CP(IB)-3243 of 2019 for **Liquidation** of the Corporate Debtor is hereby **allowed** and disposed of.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)

Sd/-
Kishore Vemulappalli
Member (Judicial)

Suresh 11.01.2024